

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(208)

CRM No. M-42113 of 2020
Date of Decision : 21.12.2020

Sandeep @ Sanju

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Saurav Bhatia, Advocate for the petitioner.

Mr. Amit Mehta, Senior Deputy Advocate General, Punjab.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 34, dated 04.05.2019, under Sections 302, 34 IPC, registered at Police Station Balachaur, District Shaheed Bhagat Singh Nagar.

Learned counsel for the petitioner argues that as per the medical report (Annexure P-8), the cause of death of the deceased is Asphyxia due to hanging, which is ante mortem. Learned counsel for the petitioner submits that as per the said report, there were no signs of struggle observed on the body of the deceased and no poison has been detected and the possibility of the death by the above suggested manner i.e. hanging by some other person or persons with the intention to kill him is remote. Learned counsel further submits that a co-accused, namely, Vijay Kumar @ Shammi has already been granted anticipatory bail by this Court by placing reliance upon the said medical report.

Notice of motion.

Mr. Amit Mehta, learned Senior Deputy Advocate General,

Punjab, who has also joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of respondent-State. Learned State counsel does not dispute the medical report Annexure P-8 and also the fact that the co-accused Vijay Kumar @ Shammi has already been granted the benefit of anticipatory bail by this Court on 10.12.2020.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

As per the medical report, the death is due to hanging, which is ante mortem and there are no signs of struggle observed on the body of the deceased and also that the possibility of the manner of death by the hanging by some other person/persons with the intention to kill is remote. Though, this report as well as the allegations mentioned in the FIR are yet to be proved during the trial but the said report already stands relied upon by this Court while granting anticipatory bail to the co-accused, namely, Vijay Kumar @ Shammi, while deciding CRM No. M-39576 of 2020 on 10.12.2020. The order passed by this Court on 10.12.2020 in CRM No. M-39576 of 2020 is as under :-

“The present petition has been filed under Section 438 Code of Criminal Procedure, 1973, for grant of anticipatory bail to the petitioner in case FIR No.34, dated 04.05.2019, under Sections 302 and 34 of the Indian Penal Code, 1860, registered at Police Station Balachaur, District S.B.S. Nagar.

Learned State counsel, on instruction from ASI Mahinderpal, has conceded that the opinion of the Board of Doctors is at variance to the initial version brought forth in the FIR that the death of the deceased was homicidal in nature.

Adjourned to 16.03.2021.

Meanwhile, the petitioner is directed to join the

investigation and appear before the investigating agency as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.PC.”

Keeping in view the above, once, the anticipatory bail has been granted to a co-accused by placing reliance upon the medical report Annexure P-8, the petitioner has made out a case for the grant of regular bail on parity.

Petitioner is granted the benefit of regular bail on his furnishing bail bonds to the satisfaction of trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not obstruct the trial in any manner or influence the witnesses, whose statement is yet to be recorded and in case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

December 21, 2020
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes*

Whether reportable? *No*